

**MINUTES OF THE PROCEEDINGS OF THE
CONSERVATION COMMISSION OF THE CITY OF WORCESTER**

June 2, 2014

WORCESTER CITY HALL – LEVI LINCOLN ROOM

Conservation Commission Members Present: Stefanie Wood, Chair
Jack Donahue
Jordan Berg Powers
Joseph Charpentier

Members Absent:

Staff Present: Christopher Gagne, Department of Public Works & Parks (DPW&P)
Stephen Rolle, Division of Planning & Regulatory Services
Nancy Tran, Division of Planning & Regulatory Services
Michelle Smith, Division of Planning & Regulatory Services

APPROVAL OF THE MINUTES

The approval of minutes from the March 24, 2014 meeting was held.

Requests for Continuances, Extensions of Time, Postponements, Withdrawals

Unfinished Business – Notices of Intent

1. 38 Toronita Avenue (Lots 1, 2 and 3) (CC-2014-015)

Application: Notice of Intent

Applicant: AET Realty Trust

Project: Demolish an existing single-family dwelling and construct three single-family detached dwellings with associated site work at 38 Toronita Avenue (Lots 1, 2 and 3, MBL: 33-018-00107)

Jurisdiction: Massachusetts Wetlands Protection Act and City of Worcester Wetlands Protection Ordinance – the proposal shall occur within 100-ft buffer zone to Bordering Vegetated Wetlands and Bank associated with an intermittent stream

Public Hearing Opening Deadline: WPA – 4/2/14; WWPO – 4/26/14

Upon a motion by Commissioner Berg-Powers and seconded by Commissioner Donahue the Commission voted 4-0 to postpone the item until the July 14, 2014 Conservation Commission meeting.

List of Exhibits:

Exhibit A: Notice of Intent Application for 38 Toronita Avenue (Lots 1, 2 and 3); received March 12, 2014.

Exhibit B: Definitive Site Plan 38 Toronita Avenue; prepared by Quinn Engineering, Inc.; dated March 11, 2014; received March 12, 2014; revised May 7, 2014 and last revised; received August 14, 2014.

Exhibit C: Memorandum from the City of Worcester Department of Public Works & Parks to the Conservation Commission; re: 38 Toronita Avenue –Revised, NOI – CC-2014-015; dated May 29, 2014.

New Business - Notices of Intent

Public Hearings

2. 4 Bird Street (CC-2014-026)

Application: Notice of Intent

Applicant: Normand Champigny

Project: Construct a two-story, 1,620 SF footprint (3,200 SF GFA) single-family attached structure with three dwelling units, 12 accessory off-street parking spaces (six garage and six driveway), associated grading and site work

Jurisdiction: City of Worcester Wetlands Protection Ordinance – the proposal shall occur within 15-ft buffer zone to a Stormwater Protection Zone

Public Hearing Opening Deadline: WPA – N/A; WWPO – 6/28/14

Upon a motion by Commissioner Berg-Powers and seconded by Commissioner Donahue the Commission voted 4-0 to postpone the item until the June 23, 2014 Conservation Commission meeting.

List of Exhibits:

Exhibit A: Local Notice of Intent Application for 4 Bird Street submitted by Normand Champigny; received May 14, 2014.

Exhibit B: Definitive Site Plan for Boston Avenue & Bird Street; prepared by Graz Engineering, LLC.; dated and received May 14, 2014; revised June 18, 2014 and received June 19, 2014.

Exhibit C: Memorandum from the City of Worcester Department of Public Works & Parks to the Conservation Commission; re: 4 Bird Street - NOI (CC-2014-026); dated June 18, 2014.

Other Business

Some communication items were taken out of order from the agenda.

3. Cook's Pond Connector – Request for Approval and Endorsement of the Conservation Restriction to be held by Conservation Commission (and owned in fee by Greater Worcester Land Trust) (41R Moreland Green Drive (MBL 25-055-0000G) and 0 Tory Fort Lane (MBL 40-040-00008 and 40-040-00009)) as part of the Commonwealth Conservation Partnership Grant

Colin Novick, Executive Director of Greater Worcester Land Trust (GWLT), appeared on behalf of the item. Mr. Novick said GWLT applied for and received approval for a grant to secure property as conservation land that would link Cook's Pond, Olean Street and Cook's Woods. He said no financial participation was required from the City of Worcester. GWLT would provide the matching money for the grant; however, Conservation Commission approval to hold a conservation restriction was necessary to ensure that the land will be preserved.

The Commissioners expressed their support of the project.

Upon a motion by Commissioner Berg Powers and seconded by Commissioner Charpentier, the Commission voted 4-0 to agree to hold the conservation restriction.

List of Exhibits:

Exhibit A: Conservation Restriction for 41R Moreland Green Drive and 0 Tory Fort Lane; undated.

4. 145 Harrington Way – Crow Hill North (aka Ecotarium West Project) - Request for Recommendation to Convey Conservation Restriction from the City of Worcester (custody of Conservation Commission) to the Greater Worcester Land Trust, as part of the Commonwealth L.A.N.D. Grant requirement

Mr. Novick appeared on behalf of the item and stated the Ecotarium West Project was partnership between the City of Worcester and GWLT. He stated that there were two pieces to the deal –the 13.7 acre property before the Commission would held in fee by the Conservation Commission with a conservation restriction held by GWLT. The property would be included in the Commission's property holdings on Crow Hill and further protect the black oak savannah habitat located on site.

Commissioner Berg Powers asked the present use of the property, to which Mr. Novick responded that it was in a natural state with two paths abused by ATV use. He said the conservation restriction intends to seal off the property to prevent ATVs from entering.

Commissioner Berg Powers inquired about the potential effects for Ecotarium. Mr. Novick said Ecotarium was not interested in using the subject portion of the property. He added that the second part concerns the north side of the property.

Commissioner Berg Powers asked if the proximity to North High would affect the property. Mr. Novick stated that the 12 acre Crow Hill Savannah to the south with frontage across from the school was encouraged for access.

Commissioner Donahue asked if there were any ADA considerations. Mr. Novick stated the primary intent was to preserve the existing biological habitat. However, because the trail was fairly level, an accessible trail may be provided in the future.

Upon a motion by Commissioner Berg Powers and seconded by Commissioner Charpentier, the Commission voted 4-0 to convey a conservation restriction from the City of Worcester to Greater Worcester Land Trust.

List of Exhibits:

Exhibit A: Conservation Restriction for Southern Portion of 145 Harrington Way; last Revised May 30, 2014.

- Exhibit B: Letter from the Executive Office of Energy and Environmental Affairs re: Ecotarium West Project #3; dated January 27, 2014; received January 30, 2014.
- Exhibit C: City Council Item re: Resolution to file and accept a Local Acquisitions of Natural Diversity (LAND) grant; dated June 18, 2013.

5. 0, 48R & 50 Tory Fort Lane – FY2015 LAND Grant – Request for formal Conservation Commission approval to pursue an Executive Office of Energy & Environmental Affairs LAND Grant in cooperation with the Greater Worcester Land Trust to acquire a portion of Donker Farm (apx. 23 acres) to be added to the existing Cook’s Pond area

Mr. Novick appeared on behalf of the item and requested Commission approval to pursue a land grant in cooperation with GWLT to acquire a portion of Donker Farm so that it can be added to the Cook’s Pond Area. He stated the Donker portion provides critical connectivity that would link two large conservation land pieces. He added that the 24 acre property is unique because it provides cultural, historical, biological and recreational landscapes. Mr. Novick explained that GWLT would hold the underlying fee to the property, providing a life estate on farm house and that the City would purchase the conservation restriction.

Chair Wood asked what would happen should the Donker family stop using the property as a farm and whether GWLT would take on the responsibility. Mr. Novick stated the concern was being addressed and that there were people in Worcester interested in helping with the animals as it is not allowed on their own property.

Commissioner Donahue asked if there would be an educational component. Mr. Novick stated there is interest in providing an educational component but that it had not yet been finalized.

Commissioner Donahue asked if there will be a parking area on site for buses to transport schools to utilize the educational component. Mr. Novick stated he did not believe the site would be able to accommodate buses but that there were schools within walking distance and nearby properties that can accommodate buses.

Commissioner Charpentier stated the property is different from other conservation restrictions as it would be primarily agriculture. Mr. Novick stated it would be unique to this site as a portion would be agricultural and the rest would be consistent with other conservation restrictions.

Chair Wood stated this is new ground from the City of Worcester and asked if Mr. Novick knew of other similar examples. Mr. Novick stated Massachusetts Meadow and DrumLine Farm have an agricultural component and it is unusual in Worcester.

Upon a motion by Commissioner Berg Powers and seconded by Commissioner Charpentier to pursue an Executive Office of Energy & Environmental Affairs LAND Grant in cooperation with the Greater Worcester Land Trust to acquire a portion of Donker Farm (~23 acres) to be added to the existing Cook’s Pond area.

List of Exhibits:

- Exhibit A: Memorandum from Luba Zhaurova, Project Sustainability Manager to Stefanie Wood, Worcester Conservation Commission; re: request for Authorization to apply for the LAND Grant to acquire a Conservation Restriction for Donker Farm; dated May 30, 2014.

New Business - Notices of Intent

Public Hearings

6. 49 Goldthwaite Rd, Lot 37A, Burncoat Gardens Phase IV (east side of Pierce Ave at Whitten St) (CC-2014-029)

Application: Notice of Intent
Applicant: Goldthwaite Holdings, LLC
Project: Construct a new single-family house with associated grading and site work located at 49 Goldthwaite Road, Lot 38A (east side of Pierce Ave at Whitten St). The Commission approved an Order of Conditions in 2013 for roadway construction on Pierce Avenue between Varney and Whitten streets

Chuck Scott from CFS Engineering appeared on behalf Goldthwaite Holdings, LLC for a Notice of Intent to construct of a single family home on Lot 37A. He stated that work will be within 50' of the wetland and that the project appeared before Planning Board to allow added flexibility in configuring the lot.

Chair Wood asked if Mr. Scott reviewed comments from DPW&P requiring a 6" PVC pipe drain connection and erosion control system installation. Mr. Scott stated spoke with DPW&P and providing revised plans to Mr. Gagne.

After reviewing the revised plans, Chair Wood stated that additional erosion control barriers were needed if lots 37B & 37A were going to be done simultaneously, otherwise, to surround the limit of work for the subject lot. Mr. Scott stated that simultaneous construction was plan but if not, straw wattles could be used if individually constructed.

Chair Wood asked Mr. Scott to review the changes between the two plans. Mr. Scott stated the difference would be changing the connection from the foundation drain which will connect to the Pierce Ave connect from a 4" to 6."

Commissioner Donahue asked equipment access to the site, to which Mr. Scott said Varney Street would be used.

Commissioner Charpentier asked for clarification regarding contour lines between the properties. Mr. Scott stated that 37A and 38A will come together when constructed and a boulder wall will be built in the rear of both lots.

Upon a motion by Commissioner Berg Powers and seconded by Commissioner Donahue the Commission voted 4-0 to close the public hearing.

List of Exhibits:

- Exhibit A: Notice of Intent Application for 49 Goldthwaite Road (Lot 37A); received May 14, 2014.
- Exhibit B: Lot-37A Plot Plan; dated May 12, 2014; received May 14, 2014.
- Exhibit C: Memorandum from the City of Worcester Department of Public Works & Parks to the Conservation Commission; re: 49 Goldthwaite Road – Lot 37A Pierce Avenue, NOI – CC-2014-029.

7. 49 Goldthwaite Rd, Lot 38A, Burncoat Gardens Phase IV (east side of Pierce Ave at Whitten St) (CC- 2014-030)

Application: Notice of Intent
Applicant: Goldthwaite Holdings, LLC
Project: Construct a new single-family house with associated grading and site work located at 49 Goldthwaite Road, Lot 38A (east side of Pierce Ave at Whitten St). The Commission approved an Order of Conditions in 2013 for roadway construction on Pierce Avenue between Varney and Whitten streets

Mr. Scott from CFS Engineering appeared on behalf of Goldthwaite Holdings, LLC for a Notice of Intent to construct a new single-family house with associated grading and site work located at 49 Goldthwaite Road, Lot 38A (east side of Pierce Ave at Whitten St).

Chair Wood asked Mr. Scott if he received letter from DPW stating that the plan submitted did not correspond to the application. Mr. Scott stated there was a discrepancy on the plan that was submitted to Chris Gage and he emailed a correct plan to Mr. Gagne the Friday prior.

Commissioner Wood recused herself from discussing the item and Commissioner Donahue assumed Chair of the Commission.

Commissioner Charpentier asked about distances between the multi-retaining walls Mr. Scott responded that there was ~5' separation between each walls and that they would be constructed to maximum of 4' in height.

Commissioner Charpentier inquired whether additional wetland markers were considered. Mr. Scott stated the applicant would be amenable to the recommendation.

Chair Donahue asked if the houses had full foundations, to which Mr. Scott said they will be full foundations around three three sides and walk out in the rear.

Upon a motion by Commissioner Berg Powers and seconded by Commissioner Charpentier the Commission voted 3-0 to close the public hearing.

List of Exhibits:

- Exhibit A: Notice of Intent Application for 49 Goldthwaite Road (Lot 38A); received May 14, 2014.
- Exhibit B: Lot-38A Plot Plan; dated May 12, 2014; received May 14, 2014; last revised May 30, 2014; received June 2, 2014.
- Exhibit C: Memorandum from the City of Worcester Department of Public Works & Parks to the Conservation Commission; re: 49 Goldthwaite Road – Lot 38A Pierce Avenue, NOI – CC-2014-030.

Commissioner Wood resumed Chair of the Commission.

Other Business

8. Enforcement Order Update – Arboretum Village Estates (CC-EO-2013-003)

Wetlands Scientist Scott Morrison of EcoTec appeared on behalf of the item and stated he would review the items from the enforcement order and their responses.

Section C – A-F from Enforcement Order

- Take all reasonable steps to prevent further violations.

Mr. Morrison stated he would review the steps addressed in other sections of the enforcement order.

- Install erosion controls designed to stabilize all exposed and erodible soils on the site and prevent additional alterations to the resources areas.

The owner cleared catch basins and installed double-stacked hay bales and additional erosion controls.

- Take off line the current stormwater systems within the paved and unpaved portions of Bittersweet and install temporary settling basins per the approved plans.

Mr. Morrison stated there is a large settlement beyond Bittersweet that collected.

- Hire an erosion control specialist to assess the site and develop a comprehensive erosion and sedimentation control plan.

Mr. Morrison stated that he and Paul McManus evaluated impacted areas and they were traced down to the Blackstone River and with some spots near the outfall that are heavily vegetated and both did not recommend removal. He said there was also a beaver dam but there was no significant sediment found. Mr. Morrison stated there was also some evidence of vandalism. He stated a letter was provided by EcoTec on August 15, 2013 to staff outlining this.

- Within 30 days hire a wetlands scientist to visually inspect and collect turbidity samples and submit monthly reports.

Mr. Morrison stated they have been collecting those samples but have not provided the monthly samples for May yet.

Mr. Morrison stated that the owner provided the information as requested.

Chair Wood inquired why certain locations showed significant elevated turbidity levels for the prior three months. Mr. Morrison stated DEP set a limit of 100 NTUs and that precipitation affects the turbidity numbers.

Chair Wood stated she expected higher proportional readings across all locations and not on or two locations. Mr. Morrison responded that the readings are not exact. He added that areas closer to construction sites are higher than more stabilized areas.

Chair Wood disagreed and stated that the construction site on hold, to which Mr. Morrison said the owner will meet with the Planning Board later in the week to work towards full stabilization.

Chair Wood requested that for an explanation of higher NTU readings for April and March as compared to the past year.

Commissioner Donahue asked if there were any correlation between vandalism and problems with the sampling. Mr. Morrison stated the samplings are standardized and he believed that beaver dam might have toppled over to affect the readings.

Commissioner Berg Powers stated readings were above 100 NTU after the long and heavy storm.

Chair Wood stated the turbidity can be imprecise requested that it be addressed.

Commissioner Charpentier stated the dates of concern could be sent to Mr. Morrison.

Chair Wood expressed her concern with the site since February, particularly since reviewing DPW&P photos of Slope A. She understood that the slope was under purview of Planning Board. During a Conservation Commission site visit with the owner, it was understood that the owner would install hay bales and berm. However, the DPW&P photos did not show any type of erosion controls. Mr. Morrison stated he recalled the conversation and will discuss it with his client.

Chair Wood requested that the erosion controls be in place by the end of the week. Mr. Morrison stated he will ensure that a silt fence with straw wattle be installed by the end of the week.

Chair Wood stated that the Commission requested the owner's attendance to provide an update regarding stabilization of Slope B. She stated the Commission was aware that hydro-seeding did not take during the fall season. Mr. Morrison stated the engineer is working on plans and expect submit it to the Planning Board later in the week.

Mr. Rolle stated that spoke he with the owner who is working with an engineer on plans and details for drainage. Plan submission was expected soon but with no specific date. Mr. Morrison asked if they would need Planning Board review. Mr. Rolle stated he assumed it would need site plan review and would need to appear before the Planning Board.

Chair Wood stated that at that point, the Commission wanted some stabilization measures installed but nothing has yet been done.

Commissioner Donahue concurred with Chair Wood and stressed the importance of addressing the problem as soon as possible.

Mr. Morrison stated he can go through the enforcement order and provide a summary at the end of week. Chair Wood stated that she was amenable the updated summary.

9. Worcester Open Space & Recreation Plan – Review of & Letter of Support for Final Draft of the 7-year plan (2013-2020)

Mr. Rolle stated comments and plan endorsement by the Commission was sought. Any comments can be incorporated by staff in a letter of support should the Commission wished to provide one.

Commissioner Charpentier stated that he provided comments at a few meetings during creation of plan. He expressed his content with seeing the Conservation Commission's involvement as well as the plans positive vision for open space. He stated he was willing to endorse it.

Commissioner Donahue concurred and was amenable to providing a letter of support.

Chair Wood stated the plan showed a city clear vision regarding wise use of its open space.

Upon a motion by Commissioner Charpentier and seconded by Commissioner Donahue, the Commission 3-0-1 (Commissioner Berg Powers abstained) to issue a letter support.

Commissioner Berg Powers abstained as he had not read the report.

10. Request for Certificate of Compliance (Partial Release) – 1 Sophia Drive (CC-2006-059 & CC-2012-016)

Mr. Gagne said the work had been completed and there were no issues.

Upon a motion by Commissioner Berg Powers and seconded by Commissioner Charpentier, the Commission voted 4-0 to issue a Certificate of Compliance.

List of Exhibits:

Exhibit A: Request for Certificate of Compliance for 1 Sophia Drive; prepared by Fox Hill Builders; dated May 8, 2014.

11. Request for Certificate of Compliance (Partial Release)– 17 Enaya Circle (CC-2012-016, DEP-349-1033)

Mr. Gagne stated this was not ready as site grading is not complete.

Ms. Tran stated that this would need to be denied as running up against a constructive grant deadline.

Upon a motion by Commissioner Berg Powers and seconded by Commissioner Donahue, the Commission voted 4-0 to deny the Certificate of Compliance for 17 Enaya Circle.

List of Exhibits:

Exhibit A: Request for Certificate of Compliance for 17 Enaya Circle; prepared by Farooq Ansari; dated May 14, 2014.

12. Request for Certificate of Compliance – 5, 15, 25 &35 Tobias Boland Way (CC-2010-003, DEP-349-931)

Upon a motion by Commissioner Berg Powers and seconded by Commissioner Donahue, the Commission voted 4-0 to issue the Certificate of Compliance for 5, 15, 25 &35 Tobias Boland Way.

List of Exhibits:

Exhibit A: Request for Certificate of Compliance for 5, 15, 25 &35 Tobias Boland Way; prepared by Matthew D. Smith, P.E.; dated May 16, 2014.

13. Request for Certificate of Compliance (Partial Release) – 7 Shawnee Road (CC-1998-036, DEP-349-271)

Upon a motion by Commissioner Berg-Powers and seconded by Commissioner Donahue the Commission voted 4-0 to issue the Certificate of Compliance for 7 Shawnee Road.

List of Exhibits:

Exhibit A: Request for Certificate of Compliance for 7 Shawnee Road; prepared by Mario LoStracco; dated May 23, 2014.

14. Communication Received:

The Commission reviewed the following communication received but took no action on it.

- a. From NSTAR, re: Natural Gas Main Extension, Lincoln Street; dated May 14, 2014; received May 19, 2014.
- b. From NSTAR, re: Yearly Operational Plan; dated May 15, 2015; received May 21, 2014.
- c. From Beals + Thomas, re: Application for 401 Water Quality Certification, Elm Park; dated May 16, 2014, received May 23, 2014.
- d. From Commonwealth of Massachusetts Land Court, re: 27 Drexel Street, Tax Lien; received May 28, 2014.
- e. From TEC Associates, re: Keolis Commuter Services 2014 Yearly Operational Plan; dated May 20, 2014; received May 28, 2014.

Discussion & Issuance of Orders of Conditions as relevant to a hearing closed 6/2/2014

The Commission reviewed the closed item and upon a motion by Commissioner Berg Powers and seconded by Commissioner Donahue, the Commission voted 4-0 to issue conditions as discussed for 49 Goldthwaite Road, Lot 37A (CC-2014-029).

The Commission reviewed the closed item and upon a motion by Commissioner Berg Powers and seconded by Commissioner Charpentier, the Commission voted 3-0-1 (Commissioner Wood abstained) to issue conditions as discussed for 49 Goldthwaite Road, Lot 38A (CC-2014-030).

15. Signing of Decisions

- **49 Goldthwaite Rd, Lot 37A, Burncoat Gardens Phase IV**– Order of Conditions
- **49 Goldthwaite Rd, Lot 38A, Burncoat Gardens Phase IV**– Order of Conditions
- **1 Sophia Drive** – Certificate of Compliance
- **5, 15, 25 & 35 Tobias Boland Way** – Certificate of Compliance
- **7 Shawnee Road (CC-1998-036, DEP-349-271)** – Certificate of Compliance
- **Cook's Pond Connector** – Conservation Restriction

Adjournment

Upon a motion by Commissioner Berg Powers and seconded by Commissioner Donahue the Commission voted 4-0 to adjourn the meeting at 7:46 p.m.